

# SENATE BILL REPORT

## SB 5849

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As of February 23, 2007

**Title:** An act relating to eliminating the partial relinquishment of water rights.

**Brief Description:** Concerning the relinquishment of a water right.

**Sponsors:** Senators Morton, Honeyford and Holmquist.

**Brief History:**

**Committee Activity:** Water, Energy & Telecommunications: 2/06/07.

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### SENATE COMMITTEE ON WATER, ENERGY & TELECOMMUNICATIONS

**Staff:** Margaret King (786-7416)

**Background:** A water right has several elements or conditions that identify the use of water under the right. One is its priority. Other elements of the water right include: the amount of water that may be withdrawn from a particular water source under the right; the time of year and point from which the water may be withdrawn; the type of water use authorized under the right (such as an agricultural or municipal use); and the place that the water may be used.

Forfeiture is a statutory provision that provides if a person does not beneficially use his or her water right, or a portion thereof, he or she relinquishes that portion of the water right for the voluntary failure to continuously use the water for five or more consecutive years unless sufficient cause is shown.

**Summary of Bill:** The bill removes the existing language in the forfeiture statute that provides for a loss of "some portion thereof" of a water right for non-use and provides that a person will not be deemed to have voluntarily failed to beneficially use a water right if at least a portion of the right is continued to be used for the established purpose of use.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: In 1967, when the beneficial use legislation was passed the idea was that Washington was going to get a handle on what water is being used; that did not happen. It should be that if you use any of your water, all of it is still yours. This bill would keep farmers from worrying about whether they can change crops

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etc. This bill only applies to relinquishment, not extent and validity analysis. This approach would make things easier for DNR.

CON: Several western states have partial relinquishment, Washington is not unique. Change should not occur in isolation but should be done as a program. The idea that if you use a portion of your water you get to keep all of it defies the concept of relinquishment. Conservation and efficiency of water use and water re-use is necessary. Ecology is underfunded, less than 2 percent of state budget goes to natural resources. Minimum stream flows are only set in about 1/3 of the state and there is little metering so we don't know how much water is being taken. The current situation creates stasis but the conversation on partial relinquishment and "extent and validity" issues should not be teased out.

OTHER: There are concerns with a surgical change to the water law. The exception swallows the rule. We would like to look at issue more globally within the entire water law framework.

**Persons Testifying:** PRO: Keith Farrens, John Stuhlmiller, Washington Farm Bureau; Michael Mayer, Washington Environmental Council; Jack Field, Washington Cattlemen's Association; Kathleen Collins, Washington Water Policy Alliance; Bruce Mackey, DNR; Gene Jenkins, citizen.

CON: Dawn Vyvyan, Yakama Nation; Steve Wehrly, Muckelshoot Tribe; Steve Robinson, NW Indian Fisheries Commission.

OTHER: Joe Stohr, DOE.